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FILED  
FEB 15 2008  
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DIVISION OF CALIFORNIA**

ALISE MALIKYAR,

Plaintiff,

vs.

JOHN SRAMEK, BERNADETTE  
SRAMEK, HAROLD M. JAFFE, John S.  
Sramek, Jr. and Bernadette Sramek  
Revocable Living Trust and DOES 1 to  
100,

Defendants.

Case No. 3:07-cv-03533-WHA

**DECLARATION OF ALISE MALKIYAR  
IN SUPPORT OF MOTION TO COMPEL  
ATTENDANCE AT DEPOSITION**

I, ALISE MALIKYAR, declare as follows:

1. That I am the plaintiff in the above-captioned lawsuit and if called to testify, I could testify on the basis of personal knowledge as to the matters discussed herein.

2. That attached hereto as **Exhibit A** are true and correct copies of the relevant portions of the Reporter's Transcript of Proceedings for the October 11, 2007 Case Management Conference in this action.

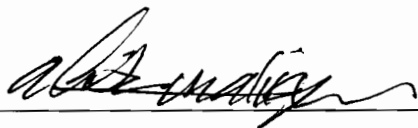
3. That attached hereto as **Exhibit B** are true and correct copies of documents that I sent or caused to be served on the defendants, including HAROLD M. JAFFE, regarding discovery in general and Mr. JAFFE's deposition in particular.

4. That prior to filing this Motion to Compel, I have engaged in a good faith effort to

1 resolve the impasse relating to Mr. JAFFE's deposition.

2 I declare under penalty of perjury under the laws of the State of California and the United  
3 States of America that the foregoing is true and correct to the best of my knowledge.

4 Signed this 14th day of February, 2008 at Lafayette, California.

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7 ALICE MALKIYAR, Plaintiff  
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**EXHIBIT A**



071011Transcript of CMC hearing  
4 Elise Malikyar versus John Sramek.

5 MR. JAFFE: It's actually pronounced Sramek.

6 MS. MCDONALD: Good morning.

7 I'm Elizabeth McDonald, and I'm specially appearing  
8 on behalf of Mr. John McSweeney, who will be the attorney of  
9 record soon.

10 THE COURT: Are you Mr. Sweeney?

11 MR. MCSWEENEY: McSweeney, Your Honor, yes, I am.

12 THE COURT: Why aren't you attorney of record now?

13 MR. MCSWEENEY: I was retained just moments ago by  
14 my client. I'm not currently eligible to practice in the  
15 district.

16 THE COURT: Where are you from?

17 MR. MCSWEENEY: I'm a California attorney, but I'm  
18 not licensed to practice in the Northern District of Federal  
19 Court.

20 THE COURT: Where do you practice?

21 MR. MCSWEENEY: In the state courts, Your Honor. I  
22 have an application pending to resolve that issue.

23 THE COURT: You have a what?

24 MR. MCSWEENEY: I have applied to -- for admission  
25 to practice in this district.

3

1 THE COURT: Well, but where is your office?

2 MR. MCSWEENEY: It's 861 Sutter Street, here in  
3 San Francisco.

4 THE COURT: All right.

5 well, there is no reason why you won't be allowed to  
6 practice in Federal Court, right?

7 MR. MCSWEENEY: There is not, but as I was not  
8 currently licensed, I did not want to show up today without an

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9 attorney.

10 THE COURT: And you represent who?

11 MR. MCSWEENEY: Elise Malikyar.

12 MR. JAFFE: Harold Jaffe, Your Honor. I represent  
13 Mr. and Mrs. Sramek and the trust. And for the present time  
14 I'm representing myself in pro per. I would ask Mr. McSweeney  
15 when he plans to file a notice of appearance in the case if he  
16 could give us a date?

17 MS. MCDONALD: Well, that is not going to happen  
18 until he gets sworn in to practice.

19 THE COURT: Go down to the Clerk's Office and take  
20 care of that while you are here.

21 MS. MCDONALD: Couple of weeks, it takes.

22 THE COURT: No, if you go down there, there is a  
23 little card and you sign the oath, they will do it today.

24 Go down to the 16th floor.

25 MR. MCSWEENEY: There is a certificate of good

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1 standing from the California State Bar that needs be received.

2 As soon as I can review that I can provide it to the Court.

3 THE COURT: Then I'm going to give -- Ms. McDonald,  
4 you are in the case for now.

5 MS. MCDONALD: Just for today.

6 MR. MCSWEENEY: Specially appearing.

7 MS. MCDONALD: Specially appearing because I'm not  
8 being retained by the plaintiff, Mr. McSweeney is, but I am  
9 licensed to practice, admitted to practice before the Northern  
10 District.

11 THE COURT: All right, look, have you seen this  
12 wiretapping device?

13 MS. MCDONALD: I have not seen it, no.

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14 THE COURT: Where is it right now?

15 MR. MCSWEENEY: To the best of my knowledge, the  
16 Police Department is still in possession of the device, Your  
17 Honor.

18 THE COURT: Somebody ought to write them a letter  
19 and say don't throw it away. That is Exhibit A in this whole  
20 case.

21 I question whether I have jurisdiction here. Are  
22 these people -- what is the diversity?

23 MS. MCDONALD: We did not remove it, we filed it in  
24 State Court.

25 THE COURT: What is the diversity, Mr. Jaffe?

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1 MR. JAFFE: I didn't remove it under diversity, I  
2 removed it under federal question, Your Honor, the wiretapping  
3 statute.

4 THE COURT: All right.

5 MR. JAFFE: Ms. Malikyar says that she is a resident  
6 of Texas, but since the -- even though she is from a different  
7 state, or alleges she is. So it wasn't removed under  
8 diversity, Your Honor.

9 THE COURT: Here is my first order, Mr. McDonald,  
10 you go to the police, you get this thing back, and you take  
11 good care. Have it -- and I want it brought in here. This  
12 whole story on both sides sounds so bizarre, but if there is  
13 anything to it, the key to the whole case is the wiretapping  
14 device.

15 For all we know, it was a prank. No one has  
16 bothered to even look at it to tell if it's a wiretapping  
17 device. So I'm ordering you to go to the police, tell them the  
18 judge wants to see this thing and that you will take good care

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19 of it. And you are going to turn it over for inspection so the  
20 other side can see it.

21 Now, if the police says, no, this is a piece of  
22 evidence and we got it for our criminal investigation, fine,  
23 they hold onto it, and we will have to deal with it some other  
24 way.

25 Mr. Jaffe, I -- if I was in your position, I would  
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1 call the police directly to make sure that that is the case.

2 what Police Department has this?

3 MR. MCSWEENEY: To the best of my knowledge, it was  
4 the Contra Costa Sheriff's Department.

5 THE COURT: Do you have a name?

6 MR. MCSWEENEY: I do not, Your Honor, not at this  
7 time.

8 THE COURT: I'm going to be real disappointed if  
9 I've found out they have thrown it away.

10 MR. MCSWEENEY: I understand, Your Honor.

11 THE COURT: Somebody should have taken steps to  
12 preserve that evidence. Now, maybe it's been preserved, but  
13 how long ago did this happen?

14 MR. MCSWEENEY: The wiretapping happened in I  
15 believe April of this year.

16 THE COURT: All right. Well, hopefully that is soon  
17 enough that they still have it and they are trying to figure  
18 out who has been violating what law.

19 Now, let me ask you, Mr. Jaffe, your papers were  
20 ambiguous. Did your clients have anything whatsoever to do  
21 with that wiretapping device?

22 MR. JAFFE: No, Your Honor.

23 THE COURT: Okay. That is about as flat out -- and



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24 you have investigated? You have investigated it? In other  
25 words, you say no, based on investigation?  
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1 MR. JAFFE: I say no based upon my conversations  
2 with them. I don't have personal knowledge. If they are lying  
3 to me, they are lying to me.

4 THE COURT: Well, I understand that is fair, but you  
5 have investigated by asking them?

6 MR. JAFFE: Correct.

7 THE COURT: They tell you flat out, no, we had  
8 nothing to do with it?

9 MR. JAFFE: No, and I'll bring Mr. Sramek in if the  
10 Court wants to continue the CMC so the gentleman gets --

11 THE COURT: I got half a mind to have an evidentiary  
12 hearing right here in court.

13 This is so simple, I look at the device, I don't  
14 know if I could tell whether it was a wiretapping device, but  
15 at least I would like to see what it is. Then I get -- put  
16 everybody under oath and find out what -- and then if there is  
17 still an issue after all that, I send you out to take some  
18 discovery.

19 MR. JAFFE: Fair enough.

20 THE COURT: Is Ms. Malikyar here?

21 MS. MCDONALD: Yes.

22 THE COURT: Ms. Malikyar, come up here for a second.

23 MS. MALILYAR: Sure.

24 THE COURT: Are you the one that found this alleged  
25 wiretapping device?  
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1 MS. MALIKYAR: No, I was at work or somewhere.

2 THE COURT: Who found it?

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3 MS. MALIKYAR: My husband did.

4 THE COURT: Is that him?

5 MS. MCDONALD: Yes.

6 MS. MALIKYAR: The P.G.& E. -- not the P.G.& E., the  
7 telephone people. Actually, they found it and called him from  
8 his office, and they called the police and they took it away.

9 THE COURT: All right, Mr. (sic) Malikyar, did you  
10 ever see this device?

11 MS. MALIKYAR: I saw the picture of it.

12 THE COURT: Did you see it? You know, did you  
13 actually see it, not the picture, but did you see it?

14 MS. MALIKYAR: No, because by the time I came home,  
15 the police took it away.

16 THE COURT: Did you see it, sir?

17 MR. JACOBSEN: Yes.

18 THE COURT: What did it look like?

19 MR. JACOBSEN: It was a waterproof box. I'm a scuba  
20 diver, and it's similar to a pelican case.

21 Do you know what that is?

22 THE COURT: No.

23 MR. JACOBSEN: A waterproof box that clamps down  
24 like you would take scuba diving at the surface. And it's  
25 waterproof. Inside this little box there was a recording  
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1 device similar to a dictaphone.

2 THE COURT: You saw it yourself?

3 MR. JACOBSEN: I did.

4 THE COURT: You saw the little spools and  
5 everything?

6 MR. JACOBSEN: It's electronic type, there is no  
7 tape. And then there is a bunch of circuitry that must do

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8 something that converts the telephone signal into something  
9 that this device can listen to. And --

10 THE COURT: who -- how do you -- are you qualified  
11 to say that that is a wiretapping device?

12 MR. JACOBSEN: Probably not.

13 THE COURT: How do you know it's a wiretapping  
14 device?

15 MR. JACOBSEN: Because it was hooked up to my phone  
16 lines, and it was a recording device.

17 THE COURT: How do you know it was recording  
18 anything?

19 MR. JACOBSEN: Because there was a sound on it of a  
20 dial tone and the sound of phone talk.

21 THE COURT: You can hear coming out of the box  
22 you -- going on the phone and you could hear yourself?

23 MR. JACOBSEN: I was told by the police when they  
24 did their investigation. I didn't listen to it. But they are  
25 pretty convinced it's wiretapping equipment.

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1 MS. MALIKYAR: The people basically found it.

2 THE COURT: The phone people?

3 MS. MALILYAR: We had a lot of noises.

4 THE COURT: what is the name of the person who found  
5 it?

6 MR. JACOBSEN: It's in the complaint, actually.

7 THE COURT: You disclosed that, the name, then?

8 MR. JACOBSEN: Yes. I don't remember his name, the  
9 officer that came out.

10 THE COURT: what makes you think that Mr. Jaffe had  
11 anything to do with it?

12 MR. JACOBSEN: There is some real strong evidence,  
Page 8

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13 sir. At the time that this happened the house was for sale,  
14 and it had been for sale for some time. Keeping in mind we are  
15 involved in another litigation in a state case.

16 THE COURT: I understand.

17 MR. JACOBSEN: Right before Alise's house is to  
18 sell, like the day before, a lis pendence is filed against it  
19 in regard to the state case. And a fax is sent to the title  
20 company, North American Title, a fax is sent there with a copy  
21 of the lis pendence alerting them to this lis pendence.

22 In the fax -- on the fax it states the name of the  
23 escrow officer -- first of all, they knew the escrow company,  
24 which is a secret thing. And in there --

25 THE COURT: No, he says that you can get it right

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1 off the Internet.

2 MR. JACOBSEN: I would like him to show that.

3 THE COURT: He explains it all in the paperwork.

4 Mr. Jaffe, how did you get the name of the company?

5 MR. JAFFE: Well, this is what happened, Your Honor;  
6 actually, the pending sale was drawn to my attention by  
7 Mr. Dave McGraw, who is the attorney for Mitchell House  
8 (phonetic), a defendant in the State Court case. And he sent  
9 me the MLS Internet list that shows the sale was pending. And  
10 I think we produced that document from May 1.

11 We filed the lis pendence in the morning. I wanted  
12 to make sure that the escrow got it. I went to the listing  
13 office in Orinda across the street from the Orinda Theater,  
14 can't remember the name. Actually, it's a real estate office.  
15 I called my secretary; she went up to North American Title.  
16 Mr. Jacobsen's used North American Title, called four or five  
17 places -- in her handwriting, she is the one who ascertained

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18 the escrow number.

19 MR. JACOBSEN: The escrow number was printed on that  
20 fax that was sent in to the company.

21 MR. JAFFE: That's correct, after she -- that she  
22 sent the lis pendence to the escrow company.

23 MR. JACOBSEN: I'm a real estate broker. Also I've  
24 talked to the title company, and they swear they would never,  
25 never give out this confidential information that -- to anybody

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1 that wasn't a party to the lawsuit. It's absolutely  
2 privileged. It will not ever be given out to anybody. If they  
3 do give it out --

4 THE COURT: Even if that is true, what makes you  
5 think that these people -- maybe the FBI put it on there.

6 MR. JACOBSEN: They didn't send the fax with the  
7 escrow number.

8 THE COURT: Maybe the state police, the FBI or some  
9 federal agency's listening to your telephone.

10 MR. JACOBSEN: That is possible, sir. I don't know  
11 that they would have a reason to, but I asked people about  
12 that, also, and the FBI does wiretap phones. And the CIA and,  
13 thank you, Mr. Bush, we have all of us watching every day.

14 MR. JAFFE: We go to politics here.

15 MR. JACOBSEN: But the FBI would go to the central  
16 box. There is a central -- and I'm not a wire guy, but there  
17 is a central switching station somewhere. They get permission.  
18 There is a form they have to fill out and submit, and they get  
19 it approved to do a wiretap. And then it's put on this box  
20 that is somewhere, not necessarily downtown, but somewhere  
21 there in the streets of the town. And they do that the same  
22 way they do it all the time.

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23           There is no application, no permit to do this  
24 wiretapping any place. This is done by an amateur.

25           Now, Mr. Jaffe's client, Mr. Sramek, is an  
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1   electrical wizard. He had something to do, very heavily had to  
2 do with the development of the flat screen monitor, and he made  
3 lots of money doing that. And I'm really happy for him, but he  
4 is not at all an amateur when it comes to electronics stuff.  
5 He has a high likelihood that he may have had something to do  
6 it with it, albeit it's a fairly simple thing.

7           THE COURT: Well, the day will come, and it's going  
8 to be soon, when he has to sit down and answer questions under  
9 oath.

10           MR. JACOBSEN: But the title company will not give  
11 out that escrow number.

12           THE COURT: That's what you say.

13           MR. JACOBSEN: That's what I say, and that is what  
14 they said to me to.

15           THE COURT: I've heard flat out statements like that  
16 crumble before your eyes.

17           MR. JACOBSEN: I'm just repeating --

18           THE COURT: Now that you are in litigation you get  
19 to the end of this case you may have a big bill to pay to other  
20 side. Same thing for the defendants. You are all looking at  
21 having to pay a fair amount of money at the end of this case to  
22 somebody else. And I question whether all this is worth it,  
23 but all right.

24           MR. JACOBSEN: I'm absolutely confident without a  
25 shadow of a doubt this man did it right here.  
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1 MR. JAFFE: Your Honor, I would mention one standing  
2 issue, is Mr. Jacobsen is in bankruptcy. And as we put in our  
3 summary judgment motion, if his claim is a claim, which we  
4 think it's not a claim, it belongs to the trustee and his  
5 bankruptcy.

6 MR. JACOBSEN: This case is with Elise Malikyar.  
7 I'm not part of the case. And I'm the only one in bankruptcy,  
8 she is not.

9 THE COURT: If that is true, who owns the telephone?

10 MR. JACOBSEN: The telephone is hers. It's her  
11 house completely.

12 THE COURT: At the time in question it was her house  
13 and her phone line?

14 MR. JACOBSEN: It's been her house for eight years  
15 since.

16 THE COURT: Is that the way the telephone records  
17 show, it's in her name?

18 MR. JACOBSEN: I'm not sure of that one. That is a  
19 good question.

20 MR. JAFFE: The exhibit to the complaint seems to  
21 indicate, although we don't have the bill, that the number  
22 listed in the exhibit for was Mr. Jacobsen's. Doesn't say  
23 that, but it implies that.

24 Now, obviously, Mr. Jacobsen would be the person --  
25 I don't --

15

1 THE COURT: All right.

2 MR. JAFFE: But irrespective of that, the trustee in  
3 Mr. Jacobsen's bankruptcy has asserted that the property at  
4 2324 is community property. And there is a preliminary  
5 injunction in the Texas bankruptcy, so that is property of the



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6 estate, at least the trustee says --

7 THE COURT: Right now she is the plaintiff.

8 MR. JAFFE: Right.

9 THE COURT: And I'm not going to -- discovery goes  
10 right now huckledy-buck. Go take discovery, as far as I'm  
11 concerned. If I find out somebody is stonewalling on  
12 discovery, I'm going to throw the case out or enter a default  
13 judgment, so there will be no stonewalling. You better  
14 cooperate on discovery, cooperate on documents, whatever you  
15 want.

16 Now, when your motion for summary judgment comes up,  
17 if you win, great, the case will be over. But do not delay, do  
18 not stonewall. Do not stall on discovery because you think you  
19 are going to win summary judgment.

20 Here is your schedule: I'm going to give you a few  
21 extra days to make sure you have done your disclosures right.

22 All initial disclosures completed by October 24.  
23 Leave to add any new parties or pleading amendments,  
24 October 24. Fact discovery cutoff will be May 9 next year.  
25 Last date to designate expert May 9.

16

1 Somebody is going to have to testify this is a  
2 wiretapping device; you are going to need an expert for that.  
3 June 26, the last date to file summary judgment, next year.

4 Final pretrial conference, 2:00 p.m., September 1, a  
5 jury trial September 15th. The case is going to be referred to  
6 the ADR Unit for mediation.

7 Now, I've been on the job eight years and only two  
8 cases have slipped. Every trial has gone, except for those  
9 two, have gone to trial when I said it would in this order. So  
10 do your homework and be ready to go. You are not going to get



071011Transcript of CMC hearing

11 any extensions unless there is a death in the family, the  
12 immediate family. So do your homework.

13 I'll be your discovery referee. If somebody is not  
14 coming across with discovery and you meet and confer, you come  
15 see me and I'll take care of it within 72 hours, okay?

16 MR. JACOBSEN: That is very fair. We have sent in  
17 multiple faxes, many telephones calls; he refuses to answer.

18 THE COURT: Mr. Jaffe, if that is true you are in  
19 big trouble. There is no discovery before me. I'm telling you  
20 now, if they have made a legitimate discovery request to you  
21 and you are in default, you are going to be in trouble.

22 If I was you, I would get back there and start  
23 answering the discovery.

24 MR. JAFFE: There has been no discovery request.

25 The problem is --

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1 THE COURT: I can't --

2 MR. JAFFE: -- Ms. Malikyar has claimed that she  
3 can't speak English well enough to engage in litigation.

4 THE COURT: She hasn't said that to me.

5 MR. JAFFE: Well, she said that under oath --

6 THE COURT: That is in some other case. Don't use  
7 that --

8 Can you speak English?

9 MS. MALILYAR: I do, but I don't know some of the  
10 legal things the way --

11 THE COURT: If she has propounded to you legitimate  
12 discovery, you have to answer it. I don't care if she speaks  
13 something else.

14 MR. JAFFE: They have not propounded discovery, Your  
15 Honor.

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16 THE COURT: All right, fine, if that is true, they  
17 haven't. If you disagree with that, you can bring a proper  
18 motion to compel. Maybe I'll say it's all deemed admitted  
19 because they have stonewalled you.

20 I want to tell you something, I know you all think  
21 this is some kind of personal grudge.

22 MS. MALILYAR: No, sir.

23 THE COURT: I don't care whether you think that or  
24 not, but I believe that you do and that you can get away with  
25 murder because in other courts you can get away with murder on  
□

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1 discovery. Not in this court, I supervise it myself, and I'm  
2 going to tell the jury, or I will enter a default on account of  
3 failure to comply with your discovery obligations.

4 I don't care how much of this other litigation --  
5 and how much you hate each other; as long as you are in this  
6 court, you are going to act in a civilized way and you are  
7 going to obey the rules. When the day comes for -- to call  
8 your first witness, I'm going to say, "call your first  
9 witness"; if you are not ready, tough, you call your first  
10 witness anyway.

11 MR. JACOBSEN: Fair enough.

12 THE COURT: I'm going to work hard to keep you on  
13 track. You got to work hard and be honest and fair and don't  
14 stonewall.

15 All right, I'm getting an order out. I'm being a  
16 little tough on you here because I can see it coming, and I'm  
17 trying to head off a lot of problems.

18 Okay, end of conference. Thank you.

19 (Proceedings adjourned at 11:15 a.m.)

20

071011Transcript of CMC hearing

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CERTIFICATE OF REPORTER

I, Sahar McVickar, Official Court Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing. The validity of the reporter's certification of said transcript may be void upon disassembly and/or removal from the court file.

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Sahar McVickar, RPR, CSR No. 12963

October 29, 2007

**EXHIBIT B**

OCT. 23. 2007 11:45AM

LA OFFICES

NO. 127 P. 1

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**Oakland, California 94610**

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**TO: Alise Malikyar**

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**FROM: Gail Smith, Paralegal**

**FAX NO: (510) 452-9125**

**TEL NO: (510) 452-2610**

**DATE: October 23, 2007**

**RE: Malikyar v. Srameks, et al.**

**USDC for the Northern District of Calif., Case No. C07-03533**

**ENCL(S): See attached.**

**MESSAGE:**

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OCT. 23. 2007 11:46AM

LA OFFICES

NO. 127 P. 2

**HAROLD M. JAFFE**

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**October 23, 2007**

**VIA FACSIMILE**

Alise Malikyar  
2324 Tice Valley Blvd.  
Walnut Creek, CA 94595

**Re: Malikyar v. Srameks, et al.  
USDC for the Northern District of Calif., Case No. C07-03533**

Dear Ms. Malikyar:

This is in response to your fax of October 19, 2007, requesting deposition dates for Mr. Sramek and the undersigned. At the ADR Conference with Mr. Herman on October 22, 2007, your husband, Mr. Jacobsen, represented that he expected to have counsel representing you shortly, and by shortly, I understood that to mean in the next week or so. Apparently, Mr. McSweeny, who appeared at the October 11, 2007 hearing, is waiting a Certificate of Good Standing from the State Bar so that the ministerial act of administering him into the Northern District of California bar can be performed. Therefore, I suggest we wait the short time between now and when Mr. McSweeny is admitted, and then I will meet and confer with him about setting up deposition dates for Mr. Sramek and myself.

Based on your representation that you are going to have counsel, it is important that counsel appear as attorney of record at deposition(s), and since that is apparently going to occur in the near future, there is no downside in waiting the short time for Mr. McSweeny to be admitted, at which time I will discuss with him, dates for depositions.

Very truly yours,



HAROLD M. JAFFE

HMJ:glis

cc: Clients (Via email)

1 Alise Malikyar  
In Pro Per  
2 P.O. Box 1386  
Lafayette, California 94549  
3 Fax: (407) 209-2126  
4  
5  
6  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 ALISE MALIKYAR,

Case No. C07-03533

12 Plaintiff,

13 vs.

**NOTICE OF DEPOSITION OF HAROLD  
M. JAFFE WITH REQUEST FOR  
PRODUCTION OF DOCUMENTS**

14 JOHN SRAMEK, BERNADETTE  
SRAMEK, HAROLD M. JAFFE, John S.  
15 Sramek, Jr. and Bernadette Sramek  
Revocable Living Trust and DOES 1 to  
16 100,

17 Defendants.  
18

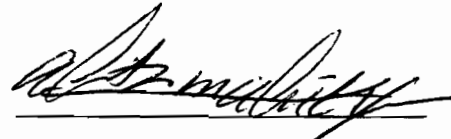
19 TO ALL PARTIES and their attorneys of record:

20 PLEASE TAKE NOTICE that on **September 24, 2007 at 1:00 p.m., at 1600 S. Main**  
21 **Street, Suite 125, Walnut Creek, California**, plaintiff ALISE MALIKYAR will take the  
22 deposition of **defendant HAROLD M. JAFFE** (3521 Grand Avenue, Oakland, California  
23 94610) upon oral examination before a deposition officer authorized to administer oaths in the  
24 State of California. The deposition will be recorded by the stenographic method. **The deposition**  
25 **may also be recorded by audio and/or visual recording.** The deposition will continue day to  
26 day at the same location, until completed, pursuant to F.R.C.P. 26 and 30.

27 NOTICE IS FURTHER GIVEN, pursuant to F.R.C.P. 30(b)(5), that the deponent is  
28 required to produce the following documents at the deposition:

1. Any and all documents in his possession, custody or control, or in the possession, custody or control of his agents and/or attorneys, regarding the 2007 sale of the Malikyar home located at 2324 Tice Valley Boulevard, Walnut Creek, California, including, but not limited to, the escrow number.
2. Any and all documents in his possession, custody or control, or in the possession, custody or control of his agents and/or attorneys, from public sources, including website printouts, which refer to the escrow number used in the 2007 sale of the Malikyar home located at 2324 Tice Valley Boulevard, Walnut Creek, California.
3. Any and all documents in his possession, custody or control, or in the possession, custody or control of his agents and/or attorneys that identify any person or persons from whom information about the escrow for the 2007 sale of the Malikyar home was obtained.

Dated: September 14, 2007



ALISE MALIKYAR



fax (407) 209-2126

*Robert Jacobsen*

# Fax

To: *Harold M. Jaffe*

From: *Robert Jacobsen*

Fax: 510 452-9125

Pages:

Phone:

Date: 8/16/2007

Re:

CC:

☐ Urgent    ☐ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

Dear Mr. Jaffe,

Just as a reminder, I haven't heard back from you regarding the 2 attached faxes sent to you by Alise and myself.

fax (407) 209-2126

*Alise Malikyar*

# Fax

To: *Harold Jaffe*

From: *Alise Malikyar*

Fax: 510 452-9125

Pages:

Phone:

Date: 8/14/07

Re: C07-03533 Meet and Confer

CC:

☐ Urgent    ☐ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

Attn: Harold Jaffe and John Sramek:

Second request for deposition for Mr. Jaffe:

I would like to schedule the deposition of Harold Jaffe and John Sramek for August 24, 2007 in Walnut Creek. I would like to schedule John Sramek at 9:00 AM and Harold Jaffe at 11:00. In the event we don't finish, the deposition will be continued from day to day until completed.

Advise if this date and time is acceptable. If it is not, provide alternate dates. I can be available any day that week. It is anticipated that each of these depositions will only be 2 hrs. long. The depositions may be video taped.

  
Alise Malikyar

TRANSMISSION VERIFICATION REPORT

TIME : 08/14/2007 19:29  
NAME :  
FAX : 4072092126  
TEL :  
SER.# : G6X183092

DATE, TIME	08/14 19:29
FAX NO./NAME	15104529125
DURATION	00:00:15
PAGE(S)	01
RESULT	OK
MODE	STANDARD
	ECM

TRANSMISSION VERIFICATION REPORT

TIME : 08/16/2007 11:34  
NAME :  
FAX : 4072092126  
TEL :  
SER.# : G6X183092

DATE, TIME	08/16 11:33
FAX NO./NAME	15104529125
DURATION	00:00:37
PAGE(S)	03
RESULT	OK
MODE	STANDARD
	ECM

1523 SteamsWay  
Allen, TX 75002  
(214) 295-6630  
fax (407) 209-2126

*Alise Malikyar*

# Fax

To: *Harold Jaffe*

From: *Alise Malikyar*

Fax: 510 452-9125

Pages:

Phone:

Date: 7/23/2007

Re: C07-03533JCS

CC:

☐ Urgent    ☐ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

Meet and Confer

I would like to schedule your deposition in the next 10 days. Please provide dates you are available to start.

1 Alise Malikyar  
PO Box 1386  
2 Lafayette, California 94549  
Facsimile: 407 209-2126  
3  
4

5 SUPERIOR COURT, STATE OF CALIFORNIA

6 COUNTY OF ALAMEDA

7 ALISE MALIKYAR,

8 Plaintiff,

9 vs.

10 JOHN SRAMEK, BERNADETTE SRAMEK,  
HAROLD M. JAFFE.  
11 and DOES 1 – 100, inclusive.

12 Defendants.  
13  
14  
15

Case No. 07-330092

**NOTICE OF DEPOSITION OF  
HAROLD JAFFE**

Date : July 20, 2007

Time : 1:00 PM

Place : See below

Trial Date : None Set

*Filed By  
Shirley Baker  
7/9/07*

16 TO: HAROLD M. JAFFE and his attorney of record:

17 PLEASE TAKE NOTICE that on July 20, 2007, at the hour of 1:00 p.m., at 1600 S. Main St, \* *See below*

18 Walnut Creek, California, Alise Malikyar will take the deposition of Harold M. Jaffe, upon oral  
19 examination before a Notary Public authorized to administer oaths in the State of California recording the  
20 testimony by the stenographic method. Said deposition shall also be recorded by either audiotape or  
21 digital recording. Said deposition will continue from day to day at the same place, until completed,  
22 pursuant to provisions of Code of Civil Procedure Sections 2017, 2033, 2025, Evidence Code Section  
23 776, or one or several of said sections.  
24  
25

//

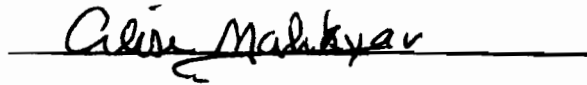
**NOTICE OF DEPOSITION**

*Deposition to be in suite 125, Professional Reporting  
Service.*

1 NOTICE IS FURTHER GIVEN pursuant to the provisions of Code of Civil Procedure Section  
2 2025(d) that deponent is required to bring with deponent all documents including:

- 3 1. All documents in his custody, possession or control reflecting where he attained information  
4 regarding the confidential escrow information about the sale of the Malikyar home located at  
5 2324 Tice Valley Blvd, Walnut Creek, CA, in particular the escrow number.  
6 2. If this information was attained from a public source, bring to this deposition copies of  
7 website printouts, or what ever the evidence is.  
8 3. If this information was attained by others, be prepared to disclose who those persons were  
9 and their contact information.

10  
11  
12 Dated: July 9, 2007

  
13 Alise Malikyar

**PROOF OF PERSONAL SERVICE**

**ALISE MALIKYAR vs. John Sramek, Bernadette Sramek, Harold M. Jaffe et al**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF ALAMEDA - Case Number 07330092**

I, Robert Jacobson hereby declare:

I am a citizen of the United States, over 18 years of age and not a party to the within action or proceeding: that my business address is:

101 CN Greenville Rd  
Allen, Tx 75002

. On JULY 9, 2007.

I served the within:


**1. NOTICE OF DEPOSITION OF JOHN SRAMEK**

on the respective party(s) in said action By personal service addressed below, by sealing a true copy of said document(s) in an envelope for each of the parties and by depositing the envelope(s) in a United States Postal Service mailbox :

JOHN SRAMEK, 3521 Grand Ave, Oakland, CA 94610

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 9, 2007

  
Robert Jacobson

**NOTICE OF DEPOSITION**



APR. 27. 2007 11:59AM

LAW OFFICES

NO. 363 P. 1

**HAROLD M. JAFFE**

Attorney at Law

8821 Grand Avenue

Oakland, California 94616

Telephone: (510) 498-8810 \* Facsimile: (510) 498-0128

e-mail: hja@hmlaw.com

**TO:** Angel Avery, Esq. & Co.  
**FROM:** NORTH AMERICAN TITLE INSURANCE CO.  
**FAX NO:** (925) 888-8810  
**TEL NO:** (925) 888-8888

**FROM:** Gail Smith, Portlago  
**DATE:** April 27, 2007  
**RE:** Brumak v. Jacobson  
 Order No. 701000  
 Property: 8884 Tice Valley Blvd., Walnut Creek, CA

**ENCL:** See attached.

**MESSAGE:** Notice of Pending Action.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE RECIPIENT OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND DELETES THE ORIGINAL MESSAGE. THANK YOU.

ORIGINAL BY MAIL Yes ☒ No ☐  
 NO. OF PAGES 1 INCLUDING THIS COVER SHEET  
 IF THIS TRANSMISSION WAS INCOMPLETE OR UNRELIABLE  
 PLEASE CALL US AT (510) 498-8810